

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36097

STATE OF IDAHO,)	2009 Unpublished Opinion No. 581
)	
Plaintiff-Respondent,)	Filed: August 21, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
PEDRO JAMES CANCHOLA, JR.,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Gooding County. Hon. R. Barry Wood, District Judge.

Order revoking probation and reinstating previously suspended unified seven-year sentence with three-year determinate term for aiding and abetting the delivery of a controlled substance, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Stephen D. Thompson, Ketchum, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; PERRY, Judge;
and GUTIERREZ, Judge

PER CURIAM

Pedro James Canchola, Jr. pled guilty to aiding and abetting the delivery of a controlled substance, I.C. §§ 37-2732(a)(1)(A), 18-204, and the district court imposed a unified seven-year sentence with a three-year determinate term. The court suspended the sentence and placed Canchola on probation. This probation was subsequently revoked and the suspended sentence ordered into execution. Canchola filed an I.C.R. 35 motion for reduction of his sentence, which the district court denied. On appeal, Canchola does not challenge the district court's decision to revoke probation, but argues only that this sentence is excessive and that the district court erred in denying his Rule 35 motion.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

When we review a sentence that is ordered into execution following a period of probation, we do not base our review solely upon the facts existing when the sentence was imposed. *State v. Whittle*, 145 Idaho 49, 52, 175 P.3d 211, 214 (Ct. App. 2007). Rather we also examine all the circumstances bearing upon the decision to revoke probation and require execution of the sentence, including events that occurred between the original pronouncement of the sentence and the revocation of probation. *Id.*

Canchola also asserts that the district court erred in denying his Rule 35 motion. A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). In conducting our review of the grant or denial of a Rule 35 motion, we consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1997); *Lopez*, 106 Idaho at 449-51, 680 P.2d at 871-73.

Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion. Therefore, the order revoking probation and directing execution of Canchola's previously suspended sentence and the district court's order denying Canchola's Rule 35 motion are affirmed.